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**ILLINOIS COMMERCE COMMISSION**

STATE OF ILLINOIS

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**ORIGINAL**

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RURAL ELECTRIC CONVENIENCE )  
COOPERATIVE CO., and SOYLAND )  
POWER COOPERATIVE, INC., )

Complainants )

vs. )

DOCKET NO. 01-0675

CENTRAL ILLINOIS PUBLIC SERVICE )  
COMPANY d/b/a AMERENCIPS, )

Respondent )

**ANSWER TO AFFIRMATIVE DEFENSE**  
**OF CENTRAL ILLINOIS PUBLIC SERVICE COMPANY,**  
**D/B/A AMERENCIPS**

RURAL ELECTRIC CONVENIENCE COOPERATIVE CO., (RECC) Complainant  
by its attorneys GROSBOLL, BECKER, TICE & REIF, Jerry Tice of counsel, and  
SOYLAND POWER COOPERATIVE, INC., (SOYLAND) Complainant, by its attorney  
MICHAEL HASTINGS, in answer to the Affirmative Matters alleged in the Answer and  
Affirmative Defense filed by CENTRAL ILLINOIS PUBLIC SERVICE COMPANY, d/b/a  
AMERENCIPS, (CIPS) Respondent states as follows:

**ANSWER TO AFFIRMATIVE MATTERS ALLEGED IN**

**COUNT II OF CIPS ANSWER**

16. RECC denies the CIPS affirmative allegations in paragraph 16 of Count II of the  
CIPS Answer regarding the Illinois Commerce Commission Order dated February 17, 1982 in  
Docket ESA 187 and states that such Order speaks for itself.

WHEREFORE, RECC requests the Illinois Commerce Commission to deny the

Affirmative Matters alleged by CIPS in Answer to Count II of the Complaint.

ANSWER TO AFFIRMATIVE MATTERS ALLEGED IN

COUNT III OF CIPS ANSWER

18. RECC denies the CIPS affirmative allegations in paragraph 18 of Count III of the CIPS Answer regarding the Illinois Commerce Commission Order dated February 17, 1982 in Docket ESA 187 and states that such Order speaks for itself.

WHEREFORE, RECC requests the Illinois Commerce Commission to deny the Affirmative Matters alleged by CIPS in Answer to Count III of the Complaint.

RESPONSE TO CIPS ANSWER TO COUNTS VII THROUGH XI

Soyland in response to the Motion to Strike by CIPS of the Soyland Counts VII through XI states as follows:

1. Soyland denies the allegation of CIPS that Soyland has failed to allege that it is permitted to serve the premises made the subject of the Complaint herein and further sets forth that Soyland alleges that it is an electric supplier within the meaning of Sections 3.4 and 3.5 of the Act which CIPS has admitted and that it has the right pursuant to the "All Requirements Contract" with RECC to provide all electric service to the customer and premises as alleged in the Complaint in the instant case and therefore CIPS by failing to answer Counts VII through XI is deemed to have admitted the same.

WHEREFORE, Soyland requests the Commission to find that CIPS, has admitted the allegations of Counts VII through XI and to enter an order granting the relief prayed for in Counts VII through XI.

ANSWER TO AFFIRMATIVE DEFENSE OF CIPS

1. RECC admits the allegations of paragraph 1 of the CIPS First Affirmative Defense.

2. RECC has insufficient information to either admit or deny the allegations of paragraph 2 of the CIPS First Affirmative Defense and further states that the 1978 complaint is not made a part of the CIPS First Affirmative Defense and therefore is not a pleading in this docket. The CIPS Affirmative Defense does not plead any facts to which RECC is required to either admit or deny and therefore RECC denies the same. Such complaint in Docket ESA 187 further pertains to a mining operation of Freeman United Coal Mining Co., located in Section 1, Township 11 North, Range 6 West, of the Third Principal Meridian, Nilwood Township, Macoupin County, Illinois whereas the instant Complaint filed by RECC pertains to a mining operation of Freeman United Coal Mining Co., located in the Southwest corner of Section 7, Township 11 North, Range 5 West, of the Third Principal Meridian, Pittman Township, Montgomery County, Illinois, and which is over one mile distant from the mining operation involved in the 1978 Complaint by RECC.

3. RECC admits that Exhibit 1 attached to the CIPS First Affirmative Defense purports to be a copy of the Order entered by the Illinois Commerce Commission in Docket ESA 187 and further states that no facts are alleged which RECC can either admit nor deny as to paragraph 3 of the CIPS First Affirmative Defense and therefore RECC denies the same and demands strict proof thereof. RECC further states that the Commission Order entered in Docket No. ESA 178 dated February 17, 1982 speaks for itself.

4. CIPS first Affirmative Defense does not allege any facts in paragraph 4 thereof to which RECC can either admit or deny but purports to recite provisions from the Commission Order in Docket ESA 187 entered February 17, 1982, which does not provide facts to which RECC can either admit or deny. Such order speaks for itself and accordingly, RECC denies the allegations of paragraph four of the CIPS First Affirmative Defense and demands strict

proof thereof. RECC further states that the proposed service made the subject of the Complaint in this docket pertains to electric service to the Freeman Mine located on 80 acres comprising the "Arnold premises" located in the South Half, Southwest Quarter, Section 7 Township 11 North, Range 5 West of the Third Principal Meridian, Pittman Township, Montgomery County, Illinois, which premises were not the subject of Docket ESA 178.

5. RECC neither admits nor denies the allegations of paragraph 5 for the reason that such allegations do not set forth any facts to which RECC can either admit or deny but constitute pleading of a court decision by the Illinois Appellate Court for the Fourth District entered October 11, 1983 which decision pertains to an Administrative Review of Commission Docket ESA 187. Accordingly, RECC denies any factual allegations contained in paragraph 5 and demands strict proof thereof. RECC further states that the premises to which electric services are at issue in the instant Complaint consist of 80 acres comprising the "Arnold Premises" in the South Half, Southwest Quarter, Section 7, Township 11 North, Range 5 West of the Third Principal Meridian, Montgomery County, Illinois which premises were not subject to the Commission Docket ESA 178 or the Appellate Court decision of October 11, 1983 set forth in paragraph 5 of the CIPS First Affirmative Defense.

6. RECC neither admits nor denies the allegations of paragraph 6 for the reason that such allegations do not set forth any facts to which RECC can either admit or deny but constitute pleading of a court decision by the Illinois Appellate Court for the Fourth District entered October 11, 1983 which decision pertains to an Administrative Review of Commission Docket ESA 187. Accordingly, RECC denies any factual allegations contained in paragraph 5 and demands strict proof thereof. RECC further states that the premises to which electric services are at issue in the instant Complaint consist of 80 acres comprising the "Arnold

Premises" in the South Half, Southwest Quarter, Section 7, Township 11 North, Range 5 West of the Third Principal Meridian, Montgomery County, Illinois which premises were not subject to the Commission Docket ESA 187 or the Appellate Court decision of October 11, 1983 set forth in paragraph 5 of the CIPS First Affirmative Defense.

7. RECC neither admits nor denies the allegations of paragraph 7 for the reason that such allegations do not set forth any facts to which RECC can either admit or deny but constitute pleading of a court decision by the Illinois Appellate Court for the Fourth District entered October 11, 1983 which decision purports to pertain to an Administrative Review of Commission Docket ESA 187. Accordingly, RECC denies any factual allegations contained in paragraph 5 and demands strict proof thereof. RECC further states that the premises to which electric services are at issue in the instant Complaint consist of 80 acres comprising the "Arnold Premises" in the South Half, Southwest Quarter, Section 7, Township 11 North, Range 5 West of the Third Principal Meridian, Montgomery County, Illinois which premises were not subject to the Commission Docket ESA 187 or the Appellate Court decision of October 11, 1983 set forth in paragraph 5 of the CIPS First Affirmative Defense.

8. RECC denies the allegations of paragraph 8 of the CIPS First Affirmative Defense and further states that the premises to which electric service is at issue in the instant Complaint involves a lime injection/mine air shaft located on an 80 acre premises identified as the "Arnold premises" situated at a different location to-wit: the South Half of the Southwest Quarter Section 7, Township 11 North Range 5 West, Pittman Township, Montgomery County, Illinois, then the electric service made the subject of Commission Docket ESA 187. RECC further states the "Arnold premises" to which electric service is at issue in the instant case comprise premises to which RECC was providing electric service to customers at

locations (the Arnold premises) which RECC was serving on July 2, 1965 pursuant to Section 5 of the ESA; the "Arnold premises" constitute premises and locations to which RECC was furnishing electric service to customers on July 2, 1965 pursuant to paragraph 1 of the February 19, 1969 Service Area Agreement between RECC and CIPS; the "Arnold premises" constitute premises delineated by Section 2 and the territory maps, appendixes 1-5 of the February 19, 1969 Service Area Agreement between RECC and CIPS to which RECC has the exclusive right to serve all customers at such locations with electric service; and the "Arnold premises" constitutes premises to which RECC is entitled to provide all electric service to the customer at such premises and/or location pursuant to Section 8 of the ESA.

9. RECC denies the allegations of paragraph 9 of the CIPS First Affirmative Defense and further states that the premises to which electric service is at issue in the instant Complaint involves a lime injection/mine air shaft located on an 80 acre premises identified as the "Arnold premises" situated at a different location to-wit: the South Half of the Southwest Quarter Section 7, Township 11 North Range 5 West, Pittman Township, Montgomery County, Illinois, then the electric service made the subject of Commission Docket ESA 187. RECC further states the "Arnold premises" to which electric service is at issue in the instant case comprise premises to which RECC was providing electric service to customers at locations (the Arnold premises) which RECC was serving on July 2, 1965 pursuant to Section 5 of the ESA; the "Arnold premises" constitute premises and locations to which RECC was furnishing electric service to customers on July 2, 1965 pursuant to paragraph 1 of the February 19, 1969 Service Area Agreement between RECC and CIPS; the "Arnold premises" constitute premises delineated by Section 2 and the territory maps, appendixes 1-5 of the February 19, 1969 Service Area Agreement between RECC and CIPS to which RECC has the

exclusive right to serve all customers at such locations with electric service; and the "Arnold premises" constitutes premises to which RECC is entitled to provide all electric service to the customer at such premises and/or location pursuant to Section 8 of the ESA.

10. RECC has insufficient information with which to either admit or deny the allegations of paragraph 10 of the CIPS First Affirmative Defense and therefore denies the same and demands strict proof thereof.

11. RECC denies the allegations of paragraph 11 of the CIPS First Affirmative Defense.

12. RECC denies the allegations of paragraph 12 of the CIPS First Affirmative Defense. RECC further states that such electric service is located at the "Arnold premises" consisting of an 80 acre tract located in the South Half of the Southwest Quarter of Section 7, Township 11 North, Range 5 West of the Third Principal Meridian, Pittman Township, Montgomery County, Illinois, is a different premises located to which electric service was at issue in Commission Docket ESA 187.

13. RECC denies the allegations of paragraph 13 of the CIPS First Affirmative Defense. RECC further states that such electric service is located at the "Arnold premises" consisting of an 80 acre tract located in the South Half of the Southwest Quarter of Section 7, Township 11 North, Range 5 West of the Third Principal Meridian, Pittman Township, Montgomery County, Illinois, is a different premises than the one to which electric service was at issue in Commission Docket ESA 187. Accordingly, Commission Docket ESA 187 is not res judicata nor does it bar or estop RECC from bringing the instant Complaint.

14. RECC denies the allegations of paragraph 14 of the CIPS First Affirmative Defense.

WHEREFORE, RECC requests the Commission to deny the First Affirmative Defense of CIPS and to dismiss the same and to deny all relief sought therein.

RURAL ELECTRIC CONVENIENCE  
COOPERATIVE, CO., Complainant

By: GROSBOLL, BECKER, TICE & REIF

By:   
One of its attorneys

SOYLAND POWER COOPERATIVE, INC.  
Complainant,

By: 

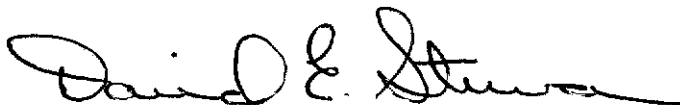
GROSBOLL, BECKER, TICE & REIF  
Attorney Jerry Tice  
101 East Douglas Street  
Petersburg, Illinois 62675  
Telephone: 217/632-2282  
reccancipsaffdel0675.jirecc

MICHAEL HASTINGS  
P.O. Box 3787  
Springfield, Illinois 62708  
Telephone: 217/529-5561



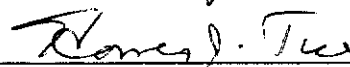
STATE OF ILLINOIS                    )  
  : SS  
COUNTY OF SANGAMON                )

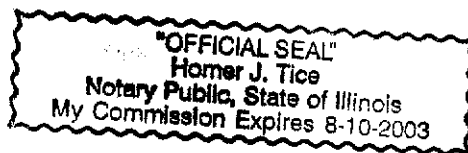
DAVID E. STUVA, being first duly sworn upon his oath deposes and states that he is the President and Chief Executive Officer of RURAL ELECTRIC CONVENIENCE COOPERATIVE CO., and that he has read the above and foregoing Answer to Affirmative Defenses by him subscribed and the same are true to the best of his knowledge, information and belief.

  
David E. Stuva

Subscribed and sworn to before me this

16 day of April, 2002.


  
Notary Public



COMMONWEALTH OF PENNSYLVANIA )

COUNTY OF DAUPHIN )

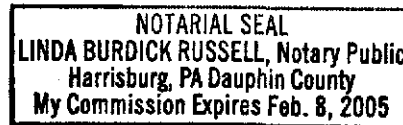
LAURENCE V. BLADEN being first duly sworn upon his oath deposes and states that he is the Vice President – Strategic & Corporate Services SOYLAND POWER COOPERATIVE, INC, and that he has read the above and foregoing Answer to Affirmative Defenses by him subscribed and the same are true to the best of his knowledge, information and belief.

  
Laurence V. Bladen

Subscribed and sworn to before me this

16<sup>th</sup> day of April, 2002.

Jenda Burdick Russell  
Notary Public



**PROOF OF SERVICE**

I, JERRY TICE, hereby certify that on the 19 day of April, 2002, I deposited in the United States mail at the post office at Petersburg, Illinois, postage fully paid, a copy of the document attached hereto and incorporated herein, addressed to the following persons at the addresses set opposite their names:

Mr. Scott Helmholz  
Sorling, Northrup, Hanna  
Cullen & Cochran Ltd.  
Suite 800 Ill. Bldg.  
607 E. Adams  
P.O. Box 5131  
Springfield, IL 62705

Gary L. Smith  
Loewenstein, Hagen & Smith P.C.  
1204 S. 4<sup>th</sup> St.  
Springfield, IL 62703

Don Woods  
Administrative Law Judge  
Illinois Commerce Commission  
527 E. Capital St.  
Springfield, IL 62705

Greg Rockrohr  
Engineering Staff  
Illinois Commerce Commission  
527 E. Capital St.  
Springfield, IL 62701-1827

A handwritten signature in cursive script, reading "Jerry Tice", is written over a horizontal line.